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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,332	10/31/2001	Donna M. Lomangino	11922-35832	5216

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EXAMINER

WINTER, JOHN M

ART UNIT PAPER NUMBER

3621

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/003,332

Applicant(s)

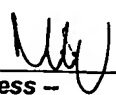
LOMANGINO, DONNA M.

Examiner

John M Winter

Art Unit

3621



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### Status

Claims 1-20 have been examined.

### *Claim Rejections - 35 USC §101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 and 20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In claims 1 and 20 the applicant claims a system in which donor members transfer items to recipient members comprising receiving information from each recipient member sufficient to classify each recipient member within predefined classes; receiving from a donor member information for a particular item to be donated, including a designation of at least one of the predefined classes as an eligible class of recipient members for receiving the particular item; and identifying the particular item to recipient members of the at least one eligible class. This process might be performed without the aid of any technology and therefore the claimed method is not within the technological arts.

All that is necessary to make a sequence of operational steps in a statutory process within 35 U.S.C. 101 is that it be in the technological arts so as to be in concordance with the Constitutional purpose to promote the progress of "useful arts" *In re Musgrave*, 431 F.2d 882 167 USPQ 280 (CCPA 1970)

A claim is limited to a practical application when the method, as claimed, produces a concrete, tangible and useful result: i.e. the method recites a step or act of producing something that is concrete, tangible and useful. *See AT&T v. Excel Communications Inc.*, 172 F3d at 1358, 50 USPQ2d at 1452.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mull, (US Patent Application Publication US 2004/0039649) in view of Shade et al (US Patent 6,519,573)

As per claim 1

Mull ('649) discloses in a system in which donor members transfer items to recipient members without receiving economic remuneration from the recipient members, a method for facilitating a transfer of an item from a donor member to a recipient member comprising the steps of:

receiving information from each recipient member sufficient to classify each recipient member within predefined classes; (Paragraph 50)

receiving from a donor member information for a particular item to be donated, including a designation of at least one of the predefined classes as an eligible class of recipient members for receiving the particular item;(Paragraph 43)

Mull ('649) does not explicitly disclose identifying the particular item to recipient members of the at least one eligible class. Shade et al ('573) discloses identifying the particular item to recipient members of the at least one eligible class. (Figure 1) It would be obvious to one having ordinary skill in the art at the time the invention was made to combine the Mull ('649) method with the Shade et al ('573) method in order to distribute charitable donations.

Claim 20 is in parallel with claim 1 and is rejected for at least the same reasons.

As per claim 2

Mull ('649) discloses the method of claim 1, further comprising not identifying the particular item to recipient members of the undesignated classes.(Paragraph 50)

As per claim 3

Mull ('649) discloses the method of claim 1,

Official Notice is taken that “identifying the particular item to recipient members of the undesignated classes after a predetermined period of time in which the particular item remains available for retrieval by a recipient member of the at least one eligible class” is common and well known in prior art in reference to charitable donation systems. It would have been obvious to one having ordinary skill in the art at the time the invention was made to allow initially undesignated members to claim an item after a period of time has passed in order to reduce the amount of “onhand” inventory in the system and reduce the need for physical storage space.

As per claim 4

Mull ('649) discloses the method of claim 1, wherein a predefined class of recipient members comprises charitable organizations.(Paragraph 18)

As per claim 5

Mull ('649) discloses the method of claim 1,

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wherein a predefined class of recipient members comprises businesses. (Paragraph 18)

As per claim 6

Mull ('649) discloses the method of claim 1,  
wherein a predefined class of recipient members comprises individuals. (Paragraph 18)

As per claim 7

Mull ('649) discloses the method of claim 1,  
wherein a predefined class of recipient members comprises schools. (Paragraph 18)

As per claim 8

Mull ('649) discloses the method of claim 1,  
wherein the predefined classes of recipient members are mutually exclusive. (Paragraph 18)

As per claim 9

Mull ('649) discloses the method of claim 1,  
wherein the predefined classes of recipient members are not mutually exclusive.  
(Paragraph 18)

As per claim 10

Mull ('649) discloses the method of claim 1,  
wherein the items to be transferred are categorized. (Paragraph 48)

As per claim 11

Mull ('649) discloses the method of claim 1,  
wherein each of the donor members and recipient members must registered with a  
facilitator in order to participate in the system. (Paragraph 31)

As per claim 12

Mull ('649) discloses the method of claim 1,  
Mull ('649) does not explicitly disclose the items include at least one of clothes,  
equipment, electronics, toys, cars, linens, appliances, crutches, eyeglasses, household items,  
construction materials, furniture, cell phones, fax machines, surplus goods, redistribution items,  
reallocation items, refurbished items, and recyclable items. Shade et al ('573) discloses the items  
include at least one of clothes, equipment, electronics, toys, cars, linens, appliances, crutches,  
eyeglasses, household items, construction materials, furniture, cell phones, fax machines, surplus  
goods, redistribution items, reallocation items, refurbished items, and recyclable items. (Column  
3, lines 42-50) It would be obvious to one having ordinary skill in the art at the time the  
invention was made to combine the Mull ('649) method with the Shade et al ('573) method in  
order to distribute charitable donations.

As per claim 13

Mull ('649) discloses the method of claim 1,

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wherein the information is received from each recipient member during registration of the recipient member with a facilitator, the facilitator performing the claimed method.(Paragraph 31)

As per claim 14

Mull ('649) discloses the method of claim 13

wherein the facilitator includes a website on the Internet. (Paragraph 19)

As per claim 15

Mull ('649) discloses the method of claim 1, further comprising

soliciting for a donation applicable to the transfer of the particular item to a recipient member. (Paragraph 48)

As per claim 16

Mull ('649) discloses the method of claim 15,

wherein the solicited donation includes money to cover at least one of shipping cost, cleaning cost, and packaging cost. (Paragraph 48)

As per claim 17

Mull ('649) discloses the method of claim 1, further comprising the steps of,

receiving from a donor member a pledge applicable to the transfer of the particular item; (Paragraph 43)

Mull ('649) discloses the claimed invention except for "second donor", It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a second donor, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Mull ('649) does not explicitly disclose identifying the particular item to recipient members of the at least one eligible class. Shade et al ('573) discloses identifying the particular item to recipient members of the at least one eligible class. (Figure 1) It would be obvious to one having ordinary skill in the art at the time the invention was made to combine the Mull ('649) method with the Shade et al ('573) method in order to distribute charitable donations.

As per claim 18

Mull ('649) discloses in a system in which donor members transfer items to recipient members without receiving economic remuneration from the recipient members, an Internet method for facilitating a transfer of an item from a donor member to a recipient member comprising the steps of:

receiving information from each recipient member sufficient to classify each recipient member within predefined classes; (Paragraph 50)

receiving from a first donor member information for a particular item to be donated, including a designation of at least one of the predefined classes as an eligible class of recipient members for receiving the particular item;(Paragraph 43)

receiving from a donor member a pledge applicable to the transfer of the particular item; (Paragraph 43)

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Mull ('649) discloses the claimed invention except for "second donor", It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a second donor, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Mull ('649) does not explicitly disclose identifying through a website the particular item to recipient members of the at least one eligible class. Shade et al ('573) discloses identifying through a website the particular item to recipient members of the at least one eligible class. (Figure 1) It would be obvious to one having ordinary skill in the art at the time the invention was made to combine the Mull ('649) method with the Shade et al ('573) method in order to distribute charitable donations.

As per claim 19

Mull ('649) discloses the method of claim 18,  
wherein the pledge includes money to cover at least one of shipping cost, cleaning cost, and packaging cost associated with the transfer of the particular item.(Paragraph 48)

### *Conclusion*

Examiners note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M Winter whose telephone number is (703) 305-3971. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P Trammell can be reached on (703)305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

September 19, 2004  
JMW



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